

as more to the purpose, deal with the question—not a difficult one it seems to me—as if it was, as in fact it is, now presented for the first time.

The facts are very few and uncomplicated. The testator was unmarried. He left two brothers surviving, namely, Barry S. Cooper and William F. S. Cooper. Barry S. Cooper had eight children, of whom three were females and five males. William F. S. Cooper, so far as appears, was unmarried. The testator also left other nephews and nieces to the number of more than eight, but the exact number is not stated, the children of deceased brothers and sisters. The testator was apparently well disposed towards his brother Barry S. Cooper, to whom he left in his will a substantial bequest.

The contention of the appellant is that the Court should, under these circumstances, supply the word “children” after the word “nephews” to make the clause read “my three nieces and five nephews, children of Barry S. Cooper.” And with that contention I entirely agree.

That the Court has power in a proper case to supply a missing word cannot be disputed. The rule is stated in many cases; among others by Knight Bruce, L.J., in *Pride v. Fooks*, 3 DeG. and J. 252, at p. 266, in these words:

“Again, all lawyers know that if the contents of a will shew that a word has been undesignedly omitted or undesignedly inserted, and demonstrate what addition by construction will fulfil the intention with which the document was written, the addition or rejection will by construction be made.”

Similar remarks by the same learned Judge occur in the earlier case of *Key v. Key*, 4 DeG. M. & G. 73, at p. 84. See also *Mellor v. Daintree*, 33 Ch. D. 198; *Re Holden*, 5 O. L. R. 156, at p. 162.

The Court must of course first be satisfied from the language of the will what was the real intention of the testator; for it is only to give effect to such intention that the implication can be made.

In the present instance, upon the facts, the matter does not, it appears to me, admit of a reasonable doubt. The testator had some eighteen or more nephews and nieces. Out of these he selected as the special subjects of his bounty in the clause in question, three nieces and five nephews—exactly the number and description of the children of his